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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Jhon Nigel Brisken,

10 Plaintiff,

11 v.

12 Juan Vasquez, et al.,

13 Defendants.  
14

No. CV-18-00241-PHX-JJT (ESW)

**ORDER**

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16 Pending before the Court is the Plaintiff's untimely Motion for Leave to File an  
17 Amended Complaint (Doc. 27) filed May 28, 2019.

18 On January 22, 2018, Plaintiff Jhon Nigel Brisken, who is confined in CoreCivic's  
19 Saguaro Correctional Center in Eloy, Arizona, filed a pro se civil rights Complaint  
20 pursuant to 42 U.S.C. § 1983 (Doc. 1). The Court screened the Complaint pursuant to 28  
21 U.S.C. § 1915A(a) and ordered Defendant Allen to answer Count One (Doc. 8 at 12).  
22 Defendant Allen has not been served, though a service packet was forwarded by the Clerk  
23 of Court on January 2, 2019 to the United States Marshals Service ("USMS") for service  
24 of process. The Court will order the Clerk of Court to contact USMS regarding the status  
25 of service of process on Defendant Allen.

26 On July 30, 2018, Plaintiff filed a "Motion for Leave to File an [sic] Amended  
27 Complaint" (Doc. 11), which the Court denied for failure to comply with LRCiv 15.1 (Doc.  
28 14). The Court ordered that Plaintiff re-file his Motion and a rule compliant proposed First

1 Amended Complaint no later than September 7, 2018 (*Id.* at 2). On September 24, 2018,  
2 the Court struck Plaintiff's second proposed First Amended Complaint for failure to  
3 comply with LRCiv 15.1. (Doc. 18). The Court granted Plaintiff's request for a thirty-  
4 day extension within which to refile a third proposed First Amended Complaint that  
5 complied with the Federal and Local Rules of Civil Procedure. (*Id.*).

6 On October 2, 2018, Plaintiff filed a document entitled "Plaintiff Files a Motion  
7 to be Explained what was Wrong with the 1<sup>st</sup> Amended Complaint that was Attached with  
8 the 30 Day Extention of Time" (Doc. 19). The Court granted in part Plaintiff's Motion  
9 (Doc. 19) by sending the Plaintiff another prisoner civil rights complaint form (Doc. 26 at  
10 3).

11 On October 25, 2018, Plaintiff filed a third "Motion for Leave to File an [sic] First  
12 Amended Complaint" (Doc. 20), which the Court denied pursuant to LRCiv 15.1 (Doc. 26  
13 at 4). However, the Court again extended the time for Plaintiff to file a rule compliant  
14 motion to amend his Complaint and lodge a fourth proposed First Amended Complaint to  
15 January 25, 2019 (Doc. 26 at 3).

16 On May 28, 2019, Plaintiff filed his untimely fourth Motion for Leave to File an  
17 Amended Complaint and fourth proposed First Amended Complaint (Docs. 27, 28).  
18 Plaintiff's motion is not compliant with LRCiv 15.1. Nor has Plaintiff provided any  
19 explanation for the untimely filing of his motion.

20 For the reasons set forth herein,


21 **IT IS ORDERED** striking<sup>1</sup> Plaintiff's Motion for Leave to File an Amended  
22 Complaint and lodged proposed First Amended Complaint (Docs. 27, 28).

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23 <sup>1</sup> *U.S. Dominator, Inc.*, 768 F.2d at 1102 n.1 ("Contrary to the defendants'  
24 assertions, Dominator's motion for leave to amend its complaint was properly treated as a  
25 nondispositive motion."); *Seto v. Thielen*, 519 F. App'x 966, 969 (9th Cir. 2013) ("A  
26 motion for leave to amend is a nondispositive motion which a magistrate judge may properly  
27 decide."); *Wingerter v. Chester Quarry Co.*, 185 F.3d 657, 660 (7th Cir. 1998) ("The  
28 magistrate judge was authorized to rule on the motion for leave to file the Third Amended  
Complaint pursuant to 28 U.S.C. § 636(b)(1)(A), which provides that the district court may  
designate a magistrate judge to hear and determine . . . any nondispositive pretrial matter.");  
*Morgal v. Maricopa County Bd. of Sup'rs*, 284 F.R.D. 452, 458 (D. Ariz. 2012)  
("Generally, a motion for leave to amend the pleadings is a nondispositive matter that may  
be ruled on by a magistrate judge pursuant to 28 U.S.C. § 636(b)(1).") (citation and internal  
quotation marks omitted).

1           **IT IS FURTHER ORDERED** that the Clerk of Court contact USMS to inquire as  
2 to the status of service of process on Defendant Allen and provide the status in a docket  
3 text entry for the Court's review.

4           Dated this 11th day of June, 2019.

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7 Eileen S. Willett  
8 United States Magistrate Judge  
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